

State of California
BOARD OF EQUALIZATION

SALES AND USE TAX REGULATIONS

Regulation 1503. HOSPITALS AND OTHER MEDICAL SERVICE FACILITIES, INSTITUTIONS AND HOMES FOR THE CARE OF PERSONS.

Reference: Sections 6006, 6007, 6015, 6016, 6051, 6359 and 6363.6, Revenue and Taxation Code.

(a) MEALS.

(1) There are exempt from sales and use tax the sale of meals and food products to and the use of meals and food products by the following institutions when furnished or served to and consumed by their residents or patients:

(A) A health facility as defined in Section 1250 of the Health and Safety Code, which holds the license required pursuant to Section 1253, or is exempt from the license requirement pursuant to subdivision (a) of Section 1270, or is operated by the United States.

(B) A community care facility as defined in Section 1502 of the Health and Safety Code, which holds the license required by Section 1508, or is a residential facility selected by a licensee pursuant to Section 1506 and exclusively used for the reception and care of persons placed by such licensee, or is exempt from the license requirement pursuant to subdivision (f) of Section 1505, or is operated by the United States.

(C) A residential care facility for the elderly, as defined in Section 1569.2 of the Health and Safety Code, that holds the license required by Section 1569.10 of the Health and Safety Code or is exempt from the license requirements pursuant to Section 1569.145 of the Health and Safety Code, or is operated by the United States.

(D) Any house, retirement home or similar establishment supplying board and room for a flat monthly rate and serving as a principal residence exclusively for persons 62 years of age or older, and any housing that primarily serves older persons and that is financed by state or federal programs. For purposes of this regulation, the term "exclusively" is defined to mean that no more than four persons under 62 years of age are in residence during any calendar quarter.

(E) An alcoholism or drug abuse recovery or treatment facility, as defined in Section 11834.02 of the Health and Safety Code, which holds the license required by Section 11834.30 of the Health and Safety Code.

(2) "Meals," for purposes of this subdivision, include any of the following:

(A) Carbonated beverages furnished or served as part of the meals.

(B) Food provided to the patient or resident by way of enteral feeding, Total Parenteral Nutrition (also called TPN), and Intradialytic Parenteral Nutrition (also called IDPN), as each is defined in Regulation 1591, provided these forms of nutrition are furnished or served to and consumed by a resident or patient of an institution specified in this subdivision (a).

(C) Nonreusable items that become components of the meals. These include straws, paper napkins, and plastic eating utensils. These also include bags and tubing, as well as filters, locks, tape, clamps, and connectors which are integral to the tubing, each of which is used to dispense enteral feeding as meals to the patient or resident including: gastrostomy tubes (also called G tubes) which are used to deliver the nutrition directly into the stomach; jejunostomy tubes (also called J tubes) which are used to deliver the nutrition directly into the intestinal tract; and nasogastric tubes (also called NG tubes) which are used to deliver the nutrition directly through the nasal passage to the stomach. Needles, syringes, cannulas, bags, and tubing, as well as filters, locks, tape, clamps, and connectors which are integral to the tubing, used to dispense TPN or IDPN as meals to the patient or resident are also regarded as components of those meals provided each of these items is used primarily to dispense the TPN or IDPN.

(b) GENERAL.

(1) **SALES TO MEDICAL SERVICE FACILITIES.** “Medical service facilities” for purposes of this subdivision are those institutions specified in subdivision (a) of this regulation as well as surgery centers and similar medical service facilities whether patients are accepted for periods of less than or more than twenty-four hours. For example, dialysis centers, AIDS centers, and cancer centers are medical service facilities. Operative April 1, 2001, except as provided in subdivision (b)(2) of this regulation, medical service facilities are service providers to their patients and residents and are the consumers of tangible personal property furnished in connection with those services, whether separately itemizing charges for the services and for the tangible personal property or billing in lump sum, and sales of that tangible personal property to the medical service facilities are taxable retail sales unless specifically exempted.

(2) **SALES BY MEDICAL SERVICE FACILITIES.** When a medical service facility is the retailer of property furnished, tax applies to its charge for that property unless the sale is exempt from tax. A medical service facility is the retailer of property furnished for a charge to persons other than residents and patients.

A medical service facility is the retailer of tangible personal property for which it makes a separately itemized charge if the property is furnished to a patient or resident with the intent that the patient or resident remove the property from the premises of the medical service facility for use by the patient or resident. Examples of such items include crutches or a wheelchair provided upon release from the medical service facility and discharge kits for new mothers (which might include formula, diapers, etc.). Notwithstanding subdivision (b)(1) of this regulation, a medical service facility is the retailer of any property furnished in connection with its medical services if its contract with the medical service facility’s resident or patient or other customer specifically provides that title to the subject tangible personal property passes to the resident or patient or other customer. When the contract has a provision passing title to the subject tangible personal property to the resident or patient or other customer, the medical services facility may purchase such property for resale, and tax applies to the charge by the medical services facility unless its sale is otherwise exempt from tax.

(3) **LABORATORY CHARGES.** Laboratory charges, such as charges for blood-counts, are not taxable. Tax does not apply with respect to purchases, sales or donations of whole blood or blood plasma for use in transfusions.

History: Amended January 9, 1963.

Amended September 18, 1963.

Amended June 20, 1967.

Amended October 8, 1968, applicable on and after October 1, 1968.

Amended and renumbered March 24, 1970, effective April 29, 1970.

Amended December 15, 1971, applicable on and after December 15, 1971.

Amended February 16, 1972, effective March 25, 1972.

Amended May 10, 1972, effective June 18, 1972.

Amended February 20, 1974, effective March 28, 1974.

Amended October 8, 1974, effective October 10, 1974. Changed definition of “institution” and added appendix of all Health and Safety Code sections used in new definition.

Amended December 7, 1978, effective February 18, 1979. Subsection (b)(2) amended to create the presumption that if an institution adds sales tax to any charges it will be presumed that the institution has made a retail sale; “special hospital” and “residential care facilities for the elderly” are defined in the Appendix; the terms “health facility” and “community care facility” have been slightly expanded to reflect changes in the Health and Safety Code.

Amended November 15, 1979, effective January 5, 1980. Added (a)(3); in (b)(1) substituted “residents” for “inmates;” in (b)(2) substituted “residents” for “inmates” and deleted reference to charges for administration of property.

Amended April 1, 1981, effective August 19, 1981. Repealed the Appendix.

Amended June 2, 1988, effective August 14, 1988. In subdivision (a)(4), included alcohol recovery facility as defined in the definition of “institution”.

Amended August 1, 1989, effective October 15, 1989. Subdivision (a)(3) amended to exclude from the definition of “institution” any retirement home which has more than four persons under 62 years of age in residence during any calendar quarter. Subdivision (b)(2) amended to add that sales of meals and food products by an institution to persons other than residents or patients of that institution are subject to the tax.

Amended May 1, 1990, effective July 13, 1990. Paragraph (a)(4) was amended to conform the regulation to the statute, amended by Senate Bill 990, Chapter 919, Statutes of 1989, to provide that drug abuse recovery or treatment facilities as defined in the Health and Safety Code are included in the definition of “institution.”

Regulation 1503. (Continued)

Amended August 1, 1991, effective August 30, 1991. Amended pursuant to Chapter 85, Statutes of 1991, and Chapter 88, Statutes of 1991, to exclude specified snack foods from the definition of food products and to clarify that snack foods are considered components of meals and food products served to residents or patients of certain institutions which may be purchased by the institutions for resale.

Amended July 28, 1993, effective November 3, 1993. Amended subdivision (b)(1) to remove reference to snack foods as an example of a normally taxable item which may be purchased for resale as a component of a meal.

Amended June 20, 1995, effective July 20, 1995. New subdivision (a)(3) added and previous subdivision (a)(3) amended and renumbered to (a)(4) as provided in Statutes of 1994, Chapter 702.

Amended February 15, 2001, effective June 1, 2001. Subdivision (a)(1) replaced with "There . . . patients;" former subdivisions (a)(1)-(5) are redesignated (a)(1)(A-E). New subdivisions (a)(2) added to include enteral feeding, TPN and IDPN in the definition of meals for purposes of this subdivision. Subdivision (b) retitled "General." Subdivision (b)(1) - current title changed to "Sales to Medical Service Facilities," existing language deleted, language "medical service facilities . . . exempted" added to provide that medical service facilities are consumers of property furnished in connection with their services. Subdivision (b)(2) - current title changed to "Sales by Medical Service Facilities;" existing language deleted; new language "When . . . patients" and new unnumbered paragraph added to specify when a medical service facility is the retailer of property furnished.

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